

**REMARKS/ARGUMENTS**

In light of the remarks to follow, reconsideration and allowance of this application are requested.

Claims 1-2, 5-9, 12-14 have been rejected under 35 U.S.C. §102(e) as being anticipated by Apte et al. U.S. Patent No. 6,269,373 (Apte et al.) and the claims 3-4 and 10-11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Apte et al. and further in view of U.S. Published Application No. 2002/0147696 (Acker et al.). Applicants respectfully traverse these rejections.

Applicants submit that neither Apte et al. nor Acker et al. is prior art under 35 U.S.C. § 102. Accordingly, any § 102 and § 103 rejections based on Apte et al. independently or in combination with Acker et al. are improper and should be withdrawn. As stated in the enclosed Declaration, applicants respectfully submit that well prior to the February 26, 1999 filing date of the Apte et al. patent and well prior to the August 12, 1999 filing date of the Acker et al. published application, the reference invention was conceived and reduced to practice. The Apte et al. patent and Acker et al. published application are therefore inapplicable as § 102 prior art and a reference that does not qualify as prior art under § 102 cannot be basis of a rejection under § 102 or § 103. Applicant therefore respectfully request that the rejections based on Apte et al. patent independently or in combination with Acker et al. published application be reconsidered and withdrawn. Accordingly, the allowance of claims 1-14 is solicited.

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However, the Commissioner is hereby authorized to deduct any additional fee or credit any overpayment to Deposit Account No. 50-0624, under Order No. **NY-THEOR 201.1 (09907976)** from which the undersigned is authorized to draw.

Dated:

Respectfully submitted,

By 

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